

## **Complaints and Appeals**

**A. GENERAL POLICY**

The OCHA responds promptly to complaints by families or owners and investigates. The OCHA may require that complaints be submitted in writing. Anonymous complaints are checked whenever possible. All written complaints or appeals will be responded to in writing by the OCHA.

**B. INFORMAL REVIEW PROCEDURES FOR APPLICANTS**

An “informal review” is conducted for applicants and shall include Voucher holders who have requested lease approval, but have not been authorized by the OCHA to sign the lease, nor has the OCHA signed a HAP Contract with the owner under the Housing Choice Voucher Program.

The OCHA must provide applicants with the opportunity for an informal review concerning the following:

- The OCHA’s determination of their status on the waiting list;
- The OCHA’s denial of participation in the program;
- The OCHA’s refusal to issue a Section 8 Housing Choice Voucher; or
- The applicant is required to pay the minimum rent and believes that this would constitute a hardship.

Informal Reviews are not required for the following instances:

- Discretionary administrative determinations by the OCHA;
- General policy issues or class grievances;
- A determination of the family unit size under the OCHA’s subsidy standards;
- A determination not to approve an extension or suspension of a Voucher term;
- A determination not to grant approval to lease a unit under the program or to approve a proposed lease;
- A determination that a unit selected by the applicant is not in compliance with Housing Quality Standards (HQS); or
- A determination that the unit is not in accordance with HQS due to the family size or composition.

The OCHA shall give an applicant prompt written notice of a decision for which the applicant is entitled to an informal review. Said notice shall include:

A brief statement of the reasons for the OCHA’s decision;\*

The applicant shall be informed that they have a right to request an informal review of the OCHA’s decision within fifteen calendar days of the date of the written notification;

The applicant must be informed how to request an informal review;

- \* If the OCHA is denying assistance for criminal activity as shown by a criminal record, the OCHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the

criminal record. If the family requests an informal review, the OCHA must provide them an opportunity to dispute the accuracy and relevance of the record in the informal review process.

An applicant's request for an informal review must be made in writing within fifteen (15) calendar days of the date of the written notification of the decision. The request for review must be delivered to the OCHA and date stamped upon receipt OR received by the OCHA in the mail and date stamped upon receipt.

The informal review shall be conducted by any person or persons designated by the OCHA, other than a person who made or approved the decision under review or a subordinate of such person.

A notice of the informal review decision shall be provided in writing to the applicant within thirty (30) calendar days of receipt of the applicant's request for an Informal Review. The written notice shall include a brief explanation of the reasons for the final decision.

All requests for a review, supporting documentation, and a copy of the final decision shall be retained in the applicant's file.

### **C. INFORMAL HEARING PROCEDURES FOR PARTICIPANTS**

Appeals by participants of the OCHA's Housing Choice Voucher Assistance Program shall be handled as outlined in the HUD regulations for informal hearings.

Participants are families who have an effective assisted lease and HAP Contract and are currently participating in the Rental Assistance Program.

Families must be notified of their right to an informal hearing in most circumstances in which the OCHA makes a decision affecting their eligibility or assistance.

The OCHA will give the family a prompt written notice of the determination which will describe:

1. The reasons for the termination (or reduction in benefits);\*
2. The procedures for requesting a hearing if the family does not agree with the termination (or reduction); and
3. The timeframe for requesting a hearing.

\*If the OCHA proposes to terminate assistance for criminal activity as shown by a criminal record, the OCHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record. If the tenant requests an informal hearing, the tenant must have the opportunity at that informal hearing to dispute the accuracy and relevance of that record.

Tenants being terminated for a criminal activity (including member(s) of the household who allegedly engaged in the criminal activity) are entitled, upon written request, to copies of the criminal record (if any) that was used by the Authority staff as a basis for the termination

The OCHA must provide program participants with the opportunity for an informal hearing for decisions related to:

- Calculation of the total tenant payment or tenant rent (including minimum rent where a tenant believes that such rent would cause a hardship);

- Denial or termination of assistance;
- Determination that a family is over-housed and is denied an exception to the subsidy standards.

Informal Hearings are not required for a family when the OCHA:

- Fails a unit for owner caused Housing Quality Standards violations;
- Refuses to extend a Voucher;
- Imposes sanctions against an owner who is not in compliance with Program requirements;
- Takes other actions following the OCHA discretionary administrative procedures or HUD regulations.

All requests for Informal Hearings must be made in writing within 15 calendar days from the date of the notification letter. An informal hearing will be scheduled with a designated Hearing Officer.

Regarding requests involving the calculation of total tenant payment or tenant rent, the family will be contacted and an explanation of the total tenant payment and tenant rent calculation will be made. If the family requests an informal hearing, the informal hearing procedures will be followed.

Regarding bedroom size determination, the family will be sent a copy of the Occupancy Standards. If the family requests an informal hearing, the informal hearing procedures will be followed.

The informal hearing shall be conducted by the Hearing Officer who is a person appointed by the OCHA who is neither the person who made or approved of the decision under review, nor a subordinate of such person.

The participant will be given the option of presenting oral or written objections to the decision in question. The family has the right to legal counsel or other representation, at their own expense. The Hearing Officer shall regulate conduct of the hearing. Both the OCHA staff and the family must have the opportunity to present evidence and/or witnesses.

The OCHA may implement the following changes prior to the hearing:

- Changes in the total tenant payment or tenant rent;
- Denial of a new Voucher for a family that wants to move;
- A determination that a family is residing in a unit with a larger number of bedrooms than appropriate under the Occupancy Standards and denial of an exception;
- Determination of number of bedrooms on a Voucher.

The Hearing Officer will make a determination on how the rule or regulation was correctly or incorrectly applied to their information submitted at the hearing. A notice of the hearing findings shall be provided in writing to the OCHA with a copy to the participant within 15 calendar days and shall include a brief explanation of the reasons for the final decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

A participant's request for an Informal Hearing must be made in writing within fifteen (15) calendar days of the date of the written notification of the decision. The request for review must be delivered to the OCHA and date stamped upon receipt OR received by the OCHA in the mail and date stamped upon receipt.

For decisions regarding termination of assistance, the OCHA will conduct the hearing prior to terminating assistance.

Families will be notified of the hearing in writing after the receipt of the hearing request. The notice will specify:

- The date, time, and place of the hearing;
- The procedures governing the Informal Hearing; and
- A contact person and phone number to be used to reschedule the hearing.

The family may request to reschedule or continue the hearing only upon showing "good cause" which is defined as an unavoidable conflict in a meeting time with another agency or a doctor or company which seriously affects the health, safety or welfare of the family.

If a family does not appear at a scheduled hearing, or is more than 1 hour late and has not rescheduled the hearing in advance, the family is in default. The OCHA will reschedule the hearing only upon a showing of good cause for the family's absence as previously defined. The hearing will be rescheduled, in this event, only one time.

If the head of household is incarcerated, the family must designate another adult to appear at the hearing.

Families have the right to:

- Examine the contents of their file related to the information which will serve as the basis for the Hearing and on which a decision will be based;
- Examine the documents submitted to the Hearing Officer;
- Present any or all information pertinent to the issue of the hearing;
- Request that OCHA staff be available or present at the hearing to answer questions pertinent to the case;
- Be represented by legal counsel or other designated representative at their own expense (with at least four days' notice to the OCHA of the designated person).

In addition to the other requirements contained in this Section, the OCHA has a right to:

- Present evidence and all or any information pertinent to the issue of the Hearing;
- Be notified if the family intends to be represented by legal counsel or another party;
- Have its attorney present; and
- Have the staff person familiar with the case present at the informal hearing.

The informal hearing shall concern only the issues identified in the “opportunity for hearing” notice. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Families shall be notified of the result of the hearing as follows:

1. A written notice of the decision will be sent to the family within 15 calendar days of the decision.
2. The letter decision of the hearing officer shall contain the following:
  - A summary of the decision including the reasons therefore;
  - Whether the decision is based on money owed by the family;
  - If the family is to be allowed to enter into a Repayment Agreement, the decision shall provide sufficient information to allow the OCHA staff to compute the amount owed;
  - If the Family is allowed the option to enter into a Repayment Agreement pursuant to a Retroactive Suspension, the decision shall state the number of months to be repaid; and
  - If the Hearing Officer is so requested by the OCHA, the decision shall state if and when the family may reapply for HUD Section 8 assistance.

The OCHA is not bound by hearing decisions:

- Concerning matters in which the OCHA is not required to provide an opportunity for a hearing;
- Contrary to HUD regulations or requirements;
- Contrary to federal, state or local laws;
- That exceeds the authority of the person conducting the hearing.

The OCHA shall send a letter to the participant if it determines that the OCHA is NOT bound by the Hearing Officer’s determination within 15 calendar days. The letter shall include the OCHA’s reasons for the decision.